

**UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA
OFFICE OF THE CLERK**
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Denise M. Lucks
Clerk of Court

M. Therese Bollerup
Chief Deputy Clerk

TO: The Honorable Lyle E. Strom

FROM: Clerk, U.S. District Court
Mary Roundtree

DATE: December 2, 2009

SUBJECT: 8:09CR4 and 8:09CR192 USA v Antonio R. Azpeitia

A party, who has NOT been permitted to proceed in forma pauperis in District Court, has filed a Notice of Appeal. Please note the following:

- (X) An appeal fee of \$455.00 was not received.
- (X) A motion to proceed in forma pauperis/affidavit on appeal was not received.
- (X) An inmate trust account statement was not received.

In order for the Clerk's office to process this appeal, please advise our office how you intend to proceed:

- X No order will be entered in this appeal, and the party is permitted to proceed on appeal in forma pauperis.
- An order will be entered finding that the party is not entitled to proceed in forma pauperis.
- An order will be entered, and the party is permitted to proceed on appeal in forma pauperis.
- An order will be entered in this § 2254 or § 2255 case regarding Certificate of Appealability.

DATED this 2nd day of December, 2009.

/s/ Lyle E. Strom

United States District Judge

The notice of appeal will not be transmitted to the Court of Appeals until this court determines the in forma pauperis status.

Additional Requirement for State Habeas or § 2255 Cases

Pursuant to Rule 22(b) of the Rules of Appellate Procedure and 28 U.S.C. § 2253 (c), the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not be issued.

Transmission of the Notice of Appeal to the Court of Appeals will be delayed until this court rules on the party's in forma pauperis status and the certificate of appealability.

Approved Date: 1/25/08

Forms-Appeal-Memo_NOT_IFP